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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,501	09/08/2000	Yasuhiko Kojima	PM 273851 EL00018CDC	3068

909 7590 07/26/2007  
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EXAMINER
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MOORE, KARLA A

ART UNIT	PAPER NUMBER
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1763

MAIL DATE	DELIVERY MODE
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07/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/658,501	<b>Applicant(s)</b> KOJIMA ET AL.	
	<b>Examiner</b> Karla Moore	<b>Art Unit</b> 1763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 is/are allowed.
- 6) ☒ Claim(s) 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,440,887 to Nishizato et al.

3. Nishizato et al. disclose a vaporizer which vaporizes a liquid material under a depressurized atmosphere, the vaporizer comprising: a liquid storing chamber (Figures 2 and 3, 6) temporarily storing the liquid material therein; a vaporizing chamber (13) set in the depressurized atmosphere; a small aperture (23) connecting between the liquid storing chamber and the vaporizing chamber so as to supply the liquid material to the vaporizing chamber; a vaporization valve body (7a) located on a side of said small aperture away from said vaporizing chamber so as to open and close an inlet port (in Figures 2 and 3, the inlet port is at the bottom part of structure 23) of said small aperture, said inlet port being located toward the liquid storing chamber; and an actuator (7b) controlling a degree of opening in the vaporization valve body, wherein said vaporization valve body is located outside the vaporizing chamber, and on a side opposite to said vaporizing chamber with respect to said small aperture, said vaporization valve body being located outside said vaporizing chamber, thereby

Art Unit: 1763

permitting uninhibited flow of the liquid material achieving a smooth flow of vapor of the liquid material in said vaporizing chamber.

4. With respect to the limitation/recitation, "so that said small aperture is continuously open to the vaporizing chamber", which Examiner has interpreted as an intended use, the courts have ruled that claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). In the instant case the aperture is capable of being opened. So, to have it opened continuously is possible and would depend on a method to be carried out in the apparatus.

5. With respect to claim 24, Nishizato et al. disclose a vaporizer which vaporizes a liquid material under a depressurized atmosphere, the vaporizer comprising: a liquid storing chamber (Figures 2 and 3, 6) temporarily storing the liquid material therein; a vaporizing chamber (13) set in the depressurized atmosphere; a small aperture (23) connecting between the liquid storing chamber and the vaporizing chamber so as to supply the liquid material to the vaporizing chamber; a vaporization valve body (7a) located on a side of said small aperture away from said vaporizing chamber so as to open and close an inlet port (in Figures 2 and 3, the inlet port is at the bottom part of structure 23) of said small aperture, said inlet port being located toward the liquid storing chamber; and an actuator (7b) controlling a degree of opening in the valve body, wherein said vaporizing chamber lacks obstacles including said vaporization valve

Art Unit: 1763

body, thereby achieving a smooth flow of vapor of the liquid material in said vaporizing chamber (smooth/obstacle-less vapor flow is diagrammed in Figure 5, for example).

### ***Allowable Subject Matter***

6. Claims 1-23 are allowed.

7. The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach or fairly suggest a vaporizer configured specifically as claimed.. Nishizato et al. which is the most similarly configured piece of prior art fails to teach "communication between said liquid storing chamber and said vaporizing chamber independently *controlled by said actuator that opens and closes an end of said small aperture opening adjacent to said vaporizing chamber*". Further, no other piece of properly combinable art taught fairly taught combination of such a feature with Nishizato et al.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

8. Applicant's arguments, regarding claim 24, filed 25 April 2007 have been fully considered but they are not persuasive.

Art Unit: 1763

9. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The whole of Applicant's arguments are drawn to features that are not claimed in claim 24.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

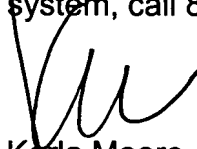
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karla Moore whose telephone number is 571.272.1440. The examiner can normally be reached on Monday-Friday, 9:00 am-6:00 pm.

Art Unit: 1763

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571.272.1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Karla Moore  
Primary Examiner  
Art Unit 1763  
23 July 2007